



*House Energy and Commerce Committee*

*Subcommittee on Oversight and Investigations Hearing*

*“Thoroughbred Horse Racing Jockeys and Workers: Examining On-Track Injury*

*Insurance and Other Health and Welfare Issues”*

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*Testimony Submitted by Mr. Daniel J. Metzger*

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The Thoroughbred Owners and Breeders Association is a trade organization of owners and breeders and is concerned with common national business interests and issues of its 3,000 members. TOBA is a service organization and has no authority to mandate participation in any insurance program. Because TOBA is not a recognized horsemen’s association in any state, it has not been directly involved in the independent contractor and backstretch worker accident insurance issue.

We would like to preface our remarks by stating a fundamental belief of our organization. Jockeys are independent contractors. Jockeys are free to choose at what track they will ride, what day they will ride, what race they will ride, and what horse they will ride. Most jockeys retain agents to line up business for them and will often break a commitment to an owner at a moments notice if a better mount becomes available in a race. Independent contractors in Thoroughbred racing, like in all other industries, are responsible for their own insurance.



On the other hand, most Thoroughbred racing states require trainers or owners to carry accident insurance for their full-time employees. TOBA fully supports enforcement of this requirement to ensure employees are protected.

The industry is here today because of a unilateral decision by the management of the Jockeys' Guild to not renew the \$1,000,000 accident insurance policy it carried for its members. The Guild claimed it could not afford the annual premium of approximately \$450,000 per year, yet the Thoroughbred Racing Association (TRA), under an agreement with the Guild, was paying the Guild \$2.2 million per year so that it could purchase additional accident insurance and supplement its medical insurance coverage. Because of the Guild's apparent mismanagement leaving its members underinsured, other industry stakeholders, including owners, now have to step in and find a solution to the problem they created.

In states where jockeys are not covered by workers' compensation insurance, racetracks carry accident insurance typically with a \$100,000 cap on medical benefits. With the Guild choosing not to renew its policy for additional coverage, we have the heartbreaking story of Gary Birzer. To cover this deficiency, 17 tracks over the past year have voluntarily increased the coverage on medical benefits to \$1,000,000. In the five states where jockeys are covered by workers' compensation insurance, TRA-member racetracks provide additional coverage of up to \$1.4 million. This coverage costs the member tracks \$1 million per year and this is in addition to the \$7 million per year horsemen pay in workers' compensation premiums.



In the fall of 2004, the National Thoroughbred Racing Association formed its Jockey Medical Insurance Panel to determine if additional solutions to this problem exist. As a member of the panel, TOBA supported the recommendations made, but because of the difference in the size of the industry from state to state, any solutions will have to be tailored to the economic structure in each Thoroughbred racing state.

Thoroughbred owners, trainers, and breeders should have adequate injury coverage for their full-time employees. Most Thoroughbred racing states require workers' compensation insurance to cover backstretch employees of trainers and owners. Jockeys are independent contractors and have fought to maintain that status. For example, when the advertising issue arose in the spring of 2004 prior to the Kentucky Derby, the jockeys took the position that they were independent contractors with the right to exhibit commercial advertising on their pants for compensation during the running of the race. A benefit of the independent contractor status is the ability to maximize one's earnings and set one's own hours. One perceived drawback to self employment is the individual is responsible for their own health and accident insurance. The jockeys, and more specifically the Guild, have abdicated their responsibility. Despite its belief that this problem has been created by the Guild and should be solved by the Guild, TOBA will continue to work with other industry organizations to find an equitable solution in the near future.

TOBA has been at the forefront of the sport in its support of enhanced drug testing and research. TOBA is a founding member of the Racing Medication and Testing Consortium, an



industry-wide effort to promote a safe and uniform medication policy across the United States.

The health and safety of both the horse and jockey are of critical importance to all owners.

We thank you for your interest in our industry and concern on this issue.